

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

MICHAEL E. TACCINO, SR.,

Plaintiff

v.

Civil Action No. 3:19-CV-91

CITY OF CUMBERLAND, MD, et al

ANSWER OF DEFENDANT ALLEGANY COUNTY GOVERNMENT

NOW COMES the Defendant, Allegany County Government (hereinafter, “Defendant Allegany County”), by and through its counsel, T. Lee Beeman, Jr., and Answers the Plaintiff’s Complaint, and in support thereof states the following:

1. Defendant Allegany County lacks sufficient knowledge or information to admit or deny the allegations contained within Section III Statement of Claim on page 6 of the Plaintiff’s Complaint.
2. Defendant Allegany County lacks sufficient knowledge or information to admit or deny the allegations contained within Paragraph 1 of Plaintiff’s Supplemental Statement of Claim.
3. Defendant Allegany County lacks sufficient knowledge or information to admit or deny the allegations contained within Paragraph 2 of Plaintiff’s Supplemental Statement of Claim.
4. Defendant Allegany County lacks sufficient knowledge or information to admit or deny the allegations contained within Paragraph 3 of Plaintiff’s Supplemental Statement of Claim.

5. Defendant Allegany County denies the allegations contained within Paragraph 4 of Plaintiff's Supplemental Statement of Claim.

GENERAL DENIAL OF ALLEGATIONS

All allegations that have not been specifically admitted are hereby denied, pursuant to Rule 8(b)(3) of the Federal Rules of Civil Procedure.

FIRST AFFIRMATIVE DEFENSE

Plaintiff states no claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by accord and satisfaction, settlement and/or payment and release.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the doctrines of waiver, estoppel, and/or laches., in whole or in part, by the applicable statute of limitations.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by duress.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by Plaintiff's permission and acquiescence in Defendant Allegany County's actions.

FIRST NON-AFFIRMATIVE DEFENSE

Defendant Allegany County has adversely used the road across Plaintiff's property in a continuous and uninterrupted manner for more than ten (10) years in an open and notorious manner with a reasonably identified starting point, end point, line and width (the road).

PRAYER FOR RELIEF

WHEREFORE, Defendant Allegany County prays that their answer be deemed good and sufficient and that all claims by Plaintiff against Defendant Allegany County be dismissed, with prejudice, and such other and further relief, legal and equitable, including attorney's fees, be awarded to Defendant Allegany County.

Dated: October 9, 2019

Respectfully submitted,

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By: T. Lee Beeman, Jr.
WV Bar No. 12886
Allegany County Government
701 Kelly Road, 4th Floor
Cumberland, MD 21502
Counsel for Defendant
Allegany County Government

CERTIFICATE OF SERVICE

I hereby certify that on October 09, 2019, I electronically filed a copy of the foregoing. Notice of this filing will be sent via email to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF System.

Pursuant to LR Gen P 5.06(f), I hereby certify that I mailed a copy of the foregoing to all parties not using CM/ECF.

_____/ s /_____
By: T. Lee Beeman, Jr.